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EXAMINER

COLON, CATHERINE M

ART UNIT PAPER NUMBER

3623

DATE MAILED: 02/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/385,414

Applicant(s)

POAGE ET AL.

Examiner

C. Michelle Colon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 47 and 48 is/are allowed.
- 6) ☒ Claim(s) 1-7, 10-15, 18 and 21-46 is/are rejected.
- 7) ☐ Claim(s) 8, 9, 16, 17, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 24, 2003 has been entered.

Claims 1, 10, 18, 21 and 24 have been amended. Claims 25-48 have been added. Claims 1-48 are now pending in this application.

Response to Amendment

2. Applicant's amendments to claims 1, 10, 18, 21 and 24 are acknowledged. Applicant's addition of claims 25-48 is acknowledged. Some of the amendments raise new 35 U.S.C. 112, second paragraph issues, which are provided below.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 10, 18, 21 and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims recite, "a customer

request," but it is unclear what the request is for. For example, the request can be for a product or service or something else.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 1, 3 and 21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

As per the first prong of the test, for a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences) and therefore are found to be non-statutory subject matter. For a process claim to be satisfactory, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 1, 3 and 21 merely recite the steps of creating a marketing initiative without applying, involving, using, or advancing the technological arts since all of the recited steps can be performed in person or by use of a pencil and paper and without the need of a computer or other technology. The reference to the

steps being performed by a processor is not sufficient to overcome this rejection since the recitation is in the preamble and therefore, is nominal.

As per the second prong of the test, for a claimed invention to be statutory, the claimed invention must produce a useful, concrete, and tangible result. In the present case, the claimed invention creates a marketing initiative (i.e., concrete) and determines the effectiveness of the initiative based on historical data (i.e., useful and tangible).

Although the recited process produces a useful, concrete, and tangible result, since the claimed invention, as a whole, is not within the technological arts as explained above, claims 1, 3 and 21 are directed to non-statutory subject matter.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1-7, 10-15, 18, and 21-46 are rejected under 35 U.S.C. 102(e) as being anticipated by Cannon (U.S. 6,286,005).

As per claim 1, Cannon discloses a method for creating a marketing initiative comprising the steps, performed by a processor, of:

inputting offer parameters for a new initiative, including an initiative time period and an initiative description (col. 13, lines 31-59; col. 14, lines 43-53; col. 28, lines 22-26; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed.); and

associating customer selection criteria with the offer parameters (col. 14, lines 43-53; col. 22, lines 13-33; col. 31, lines 1-10; col. 32, lines 52-62; The system uses various customer demographic and preferences data such as the information stored in a Nielsen database to determine new initiatives.);

determining a likelihood that the new initiative will be effective prior to use of the new initiative using stored statistics reflecting hit rates based on characteristics of other past initiatives, where the hit rates indicate the number of times an initiative was selected as being relevant to a customer request (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.); and

providing a result indicating the effectiveness of the new initiative (col. 33, lines 36-53; Figures 8, 15 and 16).

As per claim 2, Cannon discloses the method of claim 1, further comprising the step of storing the new initiative based on the result (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

As per claim 3, Cannon discloses the method of claim 1, wherein said initiative time period includes an effective date and an expiration date (col. 28, lines 22-26; col. 29, lines 51-54; col. 33, lines 33-39).

As per claim 4, Cannon discloses the method of claim 2, wherein said database is at least one of a decision support subsystem (DSS) database and a runtime offer database (col. 3, lines 33-59; col. 12, lines 9-22; col. 13, lines 31-59; col. 28, lines 42-47; Figure 1; The system includes a data mining engine system that interacts with various databases to optimize and run advertising campaigns.).

As per claim 5, Cannon discloses the method of claim 2, further comprising:
determining an impact of the new initiative on other initiatives stored in the database (col. 31, line 55-col. 32, line 36; col. 33, lines 24-53).

As per claim 6, Cannon discloses the method of claim 4, further comprising the steps of:

determining whether the new initiative is to be put into effect immediately, storing the new initiative in the runtime offer database based on the determination that the new initiative is to be put into effect immediately, and storing the new initiative in the DSS database based on the determination that the new initiative is not to be put into effect

immediately (col. 31, line 55-col. 32, line 36; The system determines whether to put the initiative into effect immediately or to store the initiative for further analysis and optimization.).

As per claim 7, Cannon discloses the method of claim 6, further comprising the step of: applying data from the DSS database to the runtime offer database periodically in a time-initiated load cycle (col. 28, lines 32-54; The system schedules advertising campaigns using data from databases.).

As per claim 10, Cannon discloses a sales manager system including a sales manager workstation for creating a marketing initiative comprising:

a sales manager workstation controller including means for entering offer parameters for a new initiative and means for associating customer selection criteria with the offer parameters (col. 13, lines 31-59; col. 14, lines 43-53; col. 22, lines 13-33; col. 28, lines 22-26; col. 31, lines 1-10; col. 32, lines 52-62; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed. The system uses various customer demographic and preferences data such as the information stored in a Nielsen database to determine new initiatives.);

a trend analysis unit using stored statistics reflecting hit rates based on characteristics of other past initiatives to determine a likelihood that the new initiative will be effective prior to use of the new initiative, where the hit rates indicate the number of times an initiative was selected as being relevant to a customer request (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col.

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37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores “spots” of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.), and wherein a result is provided indicating the effectiveness of the new initiative (col. 33, lines 36-53; Figures 8, 15 and 16).

As per claim 11, Cannon discloses the sales manager system of claim 10, wherein the new initiative is stored in a database based on the result (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

As per claim 12, Cannon discloses the sales manager system of claim 11, wherein the database is at least one of decision support subsystem (DSS) database and a runtime offer database (col. 3, lines 33-59; col. 12, lines 9-22; col. 13, lines 31-59; col. 28, lines 42-47; Figure 1; The system includes a data mining engine system that interacts with various databases to optimize and run advertising campaigns.).

As per claim 13, Cannon discloses the sales manager system of claim 11, further comprising:

an impact analysis unit for determining an impact of the new initiative on other initiatives stored in the database (col. 31, line 55-col. 32, line 36; col. 33, lines 24-53).

As per claim 14, Cannon discloses the sales manager system of claim 12, further comprising: means for determining whether the new initiative needs to be put into effect immediately, means for storing the new initiative in the runtime offer database based on the determination that the new initiative is to be put into effect immediately, and means for storing the new initiative in the DSS database based on the determination that the new initiative is not to be put into effect immediately (col. 31, line 55-col. 32, line 36; The system determines whether to put the initiative into effect immediately or to store the initiative for further analysis and optimization.).

As per claim 15, Cannon discloses the sales manager system of claim 14, wherein data from the DSS database is applied to the runtime offer database periodically in a time-initiated load cycle (col. 28, lines 32-54; The system schedules advertising campaigns using data from databases.).

As per claim 18, Cannon discloses a sales manager system comprising:
a sales manager workstation for creating a marketing initiative, said sales manager workstation including a sales manager workstation controller including means for entering offer parameters for a new initiative and means for associating customer selection criteria with the offer parameters (col. 13, lines 31-59; col. 14, lines 43-53; col. 22, lines 13-33; col. 28, lines 22-26; col. 31, lines 1-10; col. 32, lines 52-62; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed. The system uses various customer demographic and preferences data such as the information stored in a Nielsen database to determine new initiatives.), a trend analysis unit using stored

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statistics reflecting hit rates based on characteristics of other past initiatives to determine a likelihood that the new initiative will be effective prior to use of the new initiative, where the hit rates indicate the number of times an initiative was selected as being relevant to a customer request (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.), and an impact analysis unit for determining an impact of the new initiative on the other initiatives stored in a database (col. 31, line 55-col. 32, line 36; col. 33, lines 24-53);

a decision support system (DSS) database connected to the sales manager workstation for storing the new initiative and a runtime offers subsystem connected to the DSS database for using information from a customer request to determine a most targeted initiative (col. 3, lines 33-59; col. 12, lines 9-22; col. 13, lines 31-59; col. 28, lines 42-47; Figure 1; The system includes a data mining engine system that interacts with various databases to optimize and run advertising campaigns.); and

a marketing host connected to the runtime offers subsystem, said marketing host including means for sending customer requests to the runtime offers subsystem (col. 28, lines 22-54; Figure 8; The initiative database interacts with the viewing data to determine the most appropriate initiative.).

As per claim 21, Cannon discloses a method for creating a marketing initiative comprising the steps, performed by a processor, of:

inputting a set of new initiatives, wherein each initiative includes an initiative time period and an initiative description (col. 13, lines 31-59; col. 14, lines 43-53; col. 28, lines 22-26; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed.); and

associating customer selection criteria with each new initiative (col. 14, lines 43-53; col. 22, lines 13-33; col. 31, lines 1-10; col. 32, lines 52-62; The system uses various customer demographic and preferences data such as the information stored in a Nielsen database to determine new initiatives.);

determining a likelihood that each new initiative will be effective using stored statistics reflecting hit rates based on characteristics of past initiatives with past sales requests (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to

determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.); and

providing a result indicating the effectiveness of each new initiative (col. 33, lines 36-53; Figures 8, 15 and 16).

As per claim 22, Cannon discloses the method of claim 21, further comprising: selectively storing in a database new initiatives from the set of new initiatives based on the result associated with each new initiative in the set (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

As per claim 23, Cannon discloses the method of claim 22, further comprising: determining an impact of each new initiative on other new initiatives in the set of new initiatives and other initiatives stored in the database (col. 31, line 55-col. 32, line 36; col. 33, lines 24-53).

As per claim 24, Cannon discloses a data processing system for creating a marketing initiative, comprising:

a memory having program instructions (Figure 1); and

a processor responsive to the program instructions to input offer parameters for a new initiative, including an initiative time period and an initiative description (col. 13, lines 31-59; col. 14, lines 43-53; col. 28, lines 22-26; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new

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initiative can be created and analyzed.), associate customer selection criteria with the offer parameters (col. 14, lines 43-53; col. 22, lines 13-33; col. 31, lines 1-10; col. 32, lines 52-62; The system uses various customer demographic and preferences data such as the information stored in a Nielsen database to determine new initiatives.), determine a likelihood that the new initiative will be effective prior to use of the new initiative using stored statistics reflecting hit rates based on characteristics of other past initiatives, where the hit rates indicate the number of times an initiative was selected as being relevant to a customer request (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.), and provide a result indicating the effectiveness of the new initiative (col. 33, lines 36-53; Figures 8, 15 and 16).

As per claim 25, Cannon discloses a method for creating a marketing initiative comprising the steps, performed by a processor, of:

(a) receiving offer parameters from a user for a new initiative (col. 13, lines 31-59; col. 14, lines 43-53; col. 28, lines 22-26; col. 33, lines 33-36; The system provides a

user interface where offer parameters and other information relating to a new initiative can be created and analyzed.);

(b) determining a likelihood that the new initiative will be effective prior to use of the new initiative using stored statistics associated with other past initiatives (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.);

(c) providing a result indicating the effectiveness of the new initiative to the user (col. 33, lines 36-53; Figures 8, 15 and 16); and

(d) receiving an indication from the user that the user is satisfied with the new initiative (col. 32, lines 10-21; Figure 13; The user has the option to add the new initiative to the schedule if he/she is satisfied with the initiative or to continue modifying the parameters of the initiative.); and

(e) storing the new initiative in a database for subsequent use (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

As per claim 26, Cannon discloses the method of claim 25, wherein if said step (d) receives an indication that the user is not satisfied with the new initiative, steps (a)-(c) are repeated (col. 32, lines 10-21; Figure 13; The user has the option to add the new initiative to the schedule if he/she is satisfied with the initiative or to continue modifying the parameters of the initiative.).

As per claim 27, Cannon discloses the method of claim 25 further comprising:
determining an impact of the new initiative on other initiatives stored in the database (col. 31, line 55-col. 32, line 36; col. 33, lines 24-53).

As per claim 28, Cannon discloses the method of claim 25 further comprising:
comparing contract obligations associated with the user with the initiative to determine whether the initiative violates any of the user's contract obligations (col. 63, lines 9-20; The system discloses comparing contract obligations that specify age and gender with the age and gender parameters of an advertising plan.).

As per claim 29, Cannon discloses the method of claim 25, wherein said step (b) comprises:

extracting key values from the new initiative, structuring the key values into key-paths, and comparing the key-paths of the initiative with key-paths of past initiatives (col. 34, line 1-col. 35, line 21; col. 36, line 5-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The scores are based on five indices, which are computed based on the goals of the advertising campaign compared with historical data of past campaigns.).

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As per claim 30, Cannon discloses the method of claim 25 further comprising:

receiving a sales request from a customer, searching the database to determine an initiative that is most relevant to the sales request, and presenting the most relevant initiative to the customer (col. 30, line 61-col. 31, line 31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system discloses establishing objectives for an advertising campaign and selecting and running the initiatives that would be most successful at meeting those objectives.).

As per claim 31, Cannon discloses the method of claim 30 further comprising:

tracking initiatives that are presented to customers to assist in market analysis (col. 42, lines 37-51; col. 45, lines 18-32; Figures 13, 20 and 21; The system tracks the initiatives that are presented to customers (such as exposure and frequency) and uses them for analyzing the effectiveness of new initiatives and for determining advertiser costs.).

As per claim 32, Cannon discloses the method of claim 30 further comprising:

extracting key values from the sales request, said key values including customer selection criteria, and structuring the key structures into a series of key-paths, and wherein said searching step searches the database using the key-paths (col. 30, line 61-col. 31, line 31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system discloses establishing objectives for an advertising campaign and selecting and running the initiatives that would be most successful at meeting those objectives.).

As per claim 33, Cannon discloses a system for creating a marketing initiative, comprising:

a memory having program instructions (Figure 1); and

a processor responsive to the program instructions such that said processor at least:

(a) receives input offer parameters for a new initiative (col. 13, lines 31-59; col. 14, lines 43-53; col. 28, lines 22-26; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed.);

(b) determines a likelihood that the new initiative will be effective prior to use of the new initiative using stored statistics associated with other past initiatives (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.);

(c) provides a result indicating the effectiveness of the new initiative to the user (col. 33, lines 36-53; Figures 8, 15 and 16);

(d) receives an indication from the user that the user is satisfied with the new initiative (col. 32, lines 10-21; Figure 13; The user has the option to add the new initiative to the schedule if he/she is satisfied with the initiative or to continue modifying the parameters of the initiative.); and

(e) stores the new initiative in a database for subsequent use (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

As per claim 34, Cannon discloses the system of claim 33, wherein if said processor further receives an indication that the user is not satisfied with the new initiative and repeats processes (a)-(c) (col. 32, lines 10-21; Figure 13; The user has the option to add the new initiative to the schedule if he/she is satisfied with the initiative or to continue modifying the parameters of the initiative.).

As per claim 35, Cannon discloses the system of claim 33, wherein said processor further:

determines an impact of the new initiative on other initiatives stored in the database (col. 31, line 55-col. 32, line 36; col. 33, lines 24-53).

As per claim 36, Cannon discloses the system of claim 33, wherein said processor further:

compares contract obligations associated with the user with the initiative to determine whether the initiative violates any of the user's contract obligations (col. 63, lines 9-20; The system discloses comparing contract obligations that specify age and gender with the age and gender parameters of an advertising plan.).

As per claim 37, Cannon discloses the system of claim 33, wherein said processor:

extracts key values from the new initiative, structures the key values into key-paths, and compares the key-paths of the initiative with key-paths of past initiatives (col. 34, line 1-col. 35, line 21; col. 36, line 5-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The scores are based on five indices, which are computed based on the goals of the advertising campaign compared with historical data of past campaigns.).

As per claim 38, Cannon discloses the system of claim 33, wherein said processor:

receives a sales request from a customer, searches the database to determine an initiative that is most relevant to the sales request, and presents the most relevant initiative to the customer (col. 30, line 61-col. 31, line 31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system discloses establishing objectives for an advertising campaign and selecting and running the initiatives that would be most successful at meeting those objectives.).

As per claim 39, Cannon discloses the system of claim 38, wherein said processor:

tracks initiatives that are presented to customers to assist in market analysis (col. 42, lines 37-51; col. 45, lines 18-32; Figures 13, 20 and 21; The system tracks the

initiatives that are presented to customers (such as exposure and frequency) and uses them for analyzing the effectiveness of new initiatives and for determining advertiser costs.).

As per claim 40, Cannon discloses the system of claim 38, wherein said processor:

extracts key values from the sales request, said key values including customer selection criteria, and structures the key structures into a series of key-paths, and searches the database using the key-paths (col. 30, line 61-col. 31, line 31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system discloses establishing objectives for an advertising campaign and selecting and running the initiatives that would be most successful at meeting those objectives.).

As per claims 41 and 43, Cannon discloses a method and system for creating a marketing initiative comprising the steps, performed by a processor, of:

(a) receiving offer parameters from a user for a new initiative (col. 13, lines 31-59; col. 14, lines 43-53; col. 28, lines 22-26; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed.);

(b) determining a likelihood that the new initiative will be effective using stored statistics associated with other past initiatives, wherein said determining comprises extracting key values from the new initiative (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64;

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col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.), structuring the key values into key-paths, and comparing the key-paths of the initiative with key-paths of past initiatives (col. 34, line 1-col. 35, line 21; col. 36, line 5-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The scores are based on five indices, which are computed based on the goals of the advertising campaign compared with historical data of past campaigns.);

(c) providing a result indicating the effectiveness of the new initiative to the user (col. 33, lines 36-53; Figures 8, 15 and 16); and

(d) receiving an indication from the user that the user is satisfied with the new initiative (col. 32, lines 10-21; Figure 13; The user has the option to add the new initiative to the schedule if he/she is satisfied with the initiative or to continue modifying the parameters of the initiative.); and

(e) storing the new initiative in a database for subsequent use (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

As per claims 42 and 44, Cannon discloses the method and system of claims 41 and 43, wherein the key-paths are trigger values that define characteristics of the initiative (col. 34, line 1-col. 35, line 21; col. 36, line 5-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented, where the scores are based on five indices, which are computed based on the goals of the advertising campaign compared with historical data of past campaigns. The indices define characteristics of the initiative.).

As per claims 45 and 46, Cannon discloses a method and system for creating a marketing initiative comprising the steps, performed by a processor, of:

(a) receiving offer parameters from a user for a new initiative (col. 13, lines 31-59; col. 14, lines 43-53; col. 28, lines 22-26; col. 33, lines 33-36; The system provides a user interface where offer parameters and other information relating to a new initiative can be created and analyzed.);

(b) determining a likelihood that the new initiative will be effective using stored statistics associated with other past initiatives (col. 31, lines 11-31; col. 31, line 65-col. 32, line 51; col. 34, line 62-col. 35, line 6; col. 36, line 57-col. 37, line 6; col. 37, lines 60-64; col. 40, lines 60-66; Figure 13; The system scores "spots" of advertising campaigns and marketing initiatives to determine the likelihood that they will be effective before they are implemented. The system uses data from past advertising campaigns and marketing initiatives to determine the likelihood of effectiveness. The past data used to determine the likelihood of effectiveness of a new initiative is further based on historical

exposure and response data, in terms of how often an initiative was shown to be relevant to customers in terms of the timeliness of the initiative and the response from customers to the initiative.);

(c) providing a result indicating the effectiveness of the new initiative to the user (col. 33, lines 36-53; Figures 8, 15 and 16); and

(d) receiving an indication from the user that the user is satisfied with the new initiative (col. 32, lines 10-21; Figure 13; The user has the option to add the new initiative to the schedule if he/she is satisfied with the initiative or to continue modifying the parameters of the initiative.);

(e) comparing contract obligations associated with the user with the initiative to determine whether the initiative violates any of the user's contract obligations (col. 63, lines 9-20; The system discloses comparing contract obligations that specify age and gender with the age and gender parameters of an advertising plan.); and

(f) storing the new initiative in a database for subsequent use (col. 13, lines 55-59; col. 32, lines 10-17; Figure 13; The initiatives are stored as part of the schedule.).

Allowable Subject Matter

9. Claims 8, 9, 16, 17, 19 and 20 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 47 and 48 are allowed.

Response to Arguments

11. Applicant's arguments are moot in view of the new grounds of rejection.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Roderick (U.S. 6,605,121) discusses a system for improved content delivery; and
- Schulze, Jr. (U.S. 6,233,564) discusses merchandising using customer information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Colon whose telephone number is 703-605-4251. The examiner can normally be reached Monday – Thursday from 8:30am to 5:30pm and every other Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 703-305-9643.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Any response to this action should be mailed to:

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or faxed to:


703-305-7687 [Official Communications; including After Final
communications labeled "Box AF"]

703-746-7202 [For status inquiries, draft communication, labeled
"Proposed" or "Draft"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal
Drive, Arlington, VA 7th floor receptionist.


cmc

February 21, 2004


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